

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 47**

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**Introduced by Assembly Member ~~Huffman~~ Members *Huffman and Brownley***  
**(Coauthors: Assembly Members *Carter, Eng, Smyth, and Swanson*)**  
**(Coauthor: Senator *Hernandez*)**

December 6, 2010

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An act to amend ~~Section 48352~~ of Sections 48352, 48356, and 48359 of, to add Section 48362 to, and to repeal Article 10 (commencing with Section 48350) of Chapter 2 of Part 27 of Division 4 of Title 2 of, the Education Code, relating to school enrollment.

LEGISLATIVE COUNSEL'S DIGEST

AB 47, as amended, Huffman. Schools: open enrollment.

Existing law, the Open Enrollment Act, allows the parent of a pupil enrolled in a low-achieving school to submit an application for the pupil to attend school in a school district other than the school district in which the parent of the pupil resides, but in which the parent nevertheless intends to enroll the pupil. Existing law defines a low-achieving school, for purposes of these provisions, as a school identified by the Superintendent of *Public Instruction* by inclusion on a list of 1,000 schools ranked by increasing Academic Performance Index (API) score; ~~however~~. Existing law provides that no local educational agency may have more than 10% of its schools on the list and that specified types of schools, including charter schools, may not be included on the list.

This bill would instead provide that the list created by the Superintendent to define low-achieving schools may include up to 1,000

~~schools, that schools on the list be ranked in decile 1 on the most current API; that a local educational agency shall not have more than 10% of its schools on the list, calculated as specified, and that county offices of education operating a special education program; and state special schools not be included on the list. The bill would also provide that a school shall only be identified as a low-achieving school if it is identified on the list for 2 consecutive years and would delete the provision excluding charter schools from inclusion on the list.~~

*Existing law requires a school district of enrollment to conduct a lottery to select pupils at random if the number of pupils who request a particular school exceeds the number of spaces available at that school.*

*This bill would provide that a school district of enrollment shall not reject the transfer of an individual with exceptional needs or an English learner if he or she is randomly selected through the lottery.*

*Existing law encourages school districts to keep specified records relating to alternative attendance pursuant to the Open Enrollment Act.*

*This bill would require school districts to keep those records and to report the information contained therein to adjacent school districts, the county board of education, and the Superintendent, as specified. The bill would also require the Superintendent to annually report the information to the Legislature and the Governor.*

*This bill would repeal the Open Enrollment Act on January 1, 2016.*

*Because this bill would require school districts to perform additional duties, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.

State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 48352 of the Education Code is amended
- 2 to read:

1 48352. For purposes of this article, the following definitions  
2 apply:

3 (a) “Low-achieving school” means any school identified by the  
4 Superintendent pursuant to the following:

5 (1) The Superintendent annually shall create a list of up to 1,000  
6 schools ranked by increasing Academic Performance Index (API)  
7 score, comprised of the same ratio of elementary, middle, and high  
8 schools as existed in decile 1 in the 2008–09 school year.

9 (2) In constructing the list of up to 1,000 schools each year, the  
10 Superintendent shall ensure each of the following:

11 ~~(A) Schools on the list shall be ranked in decile 1 of the most~~  
12 ~~current year’s growth API. A local educational agency shall not~~  
13 ~~have more than 10 percent of its schools on the list. To calculate~~  
14 ~~the maximum number of schools that a local educational agency~~  
15 ~~may have on the list, the Superintendent shall divide the number~~  
16 ~~of schools in the local educational agency by 10. If the resulting~~  
17 ~~ratio is not a whole number, the Superintendent shall round that~~  
18 ~~ratio up to the next whole number. This rounded whole number is~~  
19 ~~the maximum number of schools in the local educational agency~~  
20 ~~that may be identified on the list.~~

21 (B) A school shall not be included on the list if either of the  
22 following conditions exist:

23 (i) The school has an API score of 700 or above.

24 (ii) The school has prior year API growth of 50 points or more.

25 ~~(B)~~

26 (C) Court, community, community day schools, county offices  
27 of education operating a special education program, and state  
28 special schools shall not be included on the list.

29 ~~(C) Charter schools shall not be included on the list.~~

30 (3) A school shall only be identified as a low-achieving school  
31 for purposes of this article if the school is identified on the list for  
32 two consecutive years.

33 (b) “Parent” means the natural or adoptive parent or guardian  
34 of a dependent child.

35 (c) “School district of enrollment” means a school district other  
36 than the school district in which the parent of a pupil resides, but  
37 in which the parent of the pupil nevertheless intends to enroll the  
38 pupil pursuant to this article.

1 (d) “School district of residence” means a school district in  
2 which the parent of a pupil resides and in which the pupil would  
3 otherwise be required to enroll pursuant to Section 48200.

4 *SEC. 2. Section 48356 of the Education Code is amended to*  
5 *read:*

6 48356. (a) A school district of enrollment may adopt specific,  
7 written standards for acceptance and rejection of applications  
8 pursuant to this article. The standards may include consideration  
9 of the capacity of a program, class, grade level, school building,  
10 or adverse financial impact. Subject to subdivision (b), and except  
11 as necessary in accordance with Section 48355, the standards shall  
12 not include consideration of a pupil’s previous academic  
13 achievement, physical condition, proficiency in the English  
14 language, family income, or any of the individual characteristics  
15 set forth in Section 200.

16 (b) In considering an application pursuant to this article, a  
17 nonresident school district may apply its usual requirements for  
18 admission to a magnet school or a program designed to serve gifted  
19 and talented pupils.

20 (c) Subject to the rules and standards that apply to pupils who  
21 reside in the school district of enrollment, a resident pupil who is  
22 enrolled in one of the district’s schools pursuant to this article shall  
23 not be required to submit an application in order to remain enrolled.

24 (d) A school district of enrollment shall ensure that pupils  
25 enrolled pursuant to standards adopted pursuant to this section are  
26 enrolled in a school with a higher Academic Performance Index  
27 than the school in which the pupil was previously enrolled and are  
28 selected through a random, unbiased process that prohibits an  
29 evaluation of whether or not the pupil should be enrolled based  
30 on his or her individual academic or athletic performance, or any  
31 of the other characteristics set forth in subdivision (a), except that  
32 pupils applying for a transfer pursuant to this article shall be  
33 assigned priority for approval as follows:

34 (1) First priority for the siblings of children who already attend  
35 the desired school.

36 (2) Second priority for pupils transferring from a program  
37 improvement school ranked in decile 1 on the Academic  
38 Performance Index determined pursuant to subdivision (a) of  
39 Section 48352.

1 (3) If the number of pupils who request a particular school  
2 exceeds the number of spaces available at that school, a lottery  
3 shall be conducted in the group priority order identified in  
4 paragraphs (1) and (2) to select pupils at random until all of the  
5 available spaces are filled. *A school district of enrollment shall*  
6 *not reject the transfer of an individual with exceptional needs, as*  
7 *defined in Section 56026, or an English learner if he or she is*  
8 *randomly selected through a lottery.*

9 (e) The initial application of a pupil for transfer to a school  
10 within a school district of enrollment shall not be approved if the  
11 transfer would require the displacement from the desired school  
12 of any other pupil who resides within the attendance area of that  
13 school or is currently enrolled in that school.

14 (f) A pupil approved for a transfer to a school district of  
15 enrollment pursuant to this article shall be deemed to have fulfilled  
16 the requirements of Section 48204.

17 *SEC. 3. Section 48359 of the Education Code is amended to*  
18 *read:*

19 48359. (a) Each school district ~~is encouraged to~~ *shall* keep an  
20 accounting of all requests made for alternative attendance pursuant  
21 to this article and records of all disposition of those requests that  
22 ~~may shall~~ include, but are not limited to, all of the following:

23 (1) The number of requests granted, denied, or withdrawn. In  
24 the case of denied requests, the records may indicate the reasons  
25 for the denials.

26 (2) The number of pupils who transfer out of the district.

27 (3) The number of pupils who transfer into the district.

28 (4) The race, ethnicity, gender, self-reported socioeconomic  
29 status, and the school district of residence of each of the pupils  
30 described in paragraphs (2) and (3).

31 (5) The number of pupils described in paragraphs (2) and (3)  
32 who are classified as English learners or identified as individuals  
33 with exceptional needs, as defined in Section 56026.

34 (b) The information maintained pursuant to subdivision (a) ~~may~~  
35 *shall* be reported to the governing board of the school district at a  
36 regularly scheduled meeting of the governing board. *No later than*  
37 *May 15 of each year, the school district shall report the information*  
38 *maintained pursuant to subdivision (a) to each school district that*  
39 *is geographically adjacent to the district electing to accept transfer*

1 *pupils, the county office of education in which the district is*  
2 *located, and the Superintendent.*

3 *(c) The Superintendent shall annually report the information*  
4 *collected pursuant to subdivision (a) to the Legislature and the*  
5 *Governor.*

6 *(d) A report to be submitted pursuant to subdivision (c) shall*  
7 *be submitted in compliance with Section 9795 of the Government*  
8 *Code.*

9 *SEC. 4. Section 48362 is added to the Education Code, to read:*  
10 *48362. This article shall become inoperative on July 1, 2015,*  
11 *and, as of January 1, 2016, is repealed, unless a later enacted*  
12 *statute, that becomes operative on or before January 1, 2016,*  
13 *deletes or extends the dates on which it becomes inoperative and*  
14 *is repealed.*

15 *SEC. 5. If the Commission on State Mandates determines that*  
16 *this act contains costs mandated by the state, reimbursement to*  
17 *local agencies and school districts for those costs shall be made*  
18 *pursuant to Part 7 (commencing with Section 17500) of Division*  
19 *4 of Title 2 of the Government Code.*